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SUBJECT: NIGERIA: 2003-2004 INTERNATIONAL NARCOTICS CONTROL
STRATEGY REPORT (INCSR) PART II FINANCIAL CRIMES AND MONEY
LAUNDERING

Ref: STATE 328024

The following is Post's submission for part II INCSR for
Nigeria

Nigeria.

Nigeria is Africa's largest democracy and a hub for money laundering and other financial crimes not only for the West African sub-region but also increasingly for the entire continent. Individuals and criminal organizations have taken advantage of the country's location, weak laws, systemic corruption, lack of enforcement, and poor economic conditions to strengthen their ability to perpetrate all manner of financial crimes at home and abroad. Their success in avoiding prosecution has led to an increase in financial crimes of all types, including bank fraud, advance fee fraud, and money laundering. Despite the determined efforts of the government to counter years of rampant corruption, Transparency International still ranks Nigeria as the second most corrupt country in the World.

Nigerian Advance Fee Fraud is one of the most lucrative financial crimes committed by Nigerians. This type of fraud is referred to internationally as "Four-One-Nine-Scams," (419 is the Nigerians penal code's section on fraud). The gist of a "419" scam is to convince victims that they will receive an exorbitant return for providing a relatively modest payment of a fictitious fee in advance. Businesses and individuals around the world have been and continue to be targeted by these "get rich quick" offers. These scams often go beyond confidence games; violence against the fraud victims has also occurred. Some evidence exists that narcotics traffickers have utilized 419 Scams to fund their illicit smuggling efforts.

In December 2002, the National Assembly passed three key pieces of anti-money laundering legislation: an amendment to the 1995 Money Laundering Act, that extends the scope of the law's coverage beyond the proceeds of drug trafficking to the proceeds of all crimes; an amendment to the 1991 Banking and Other Financial Institutions (BOFI) Act that expands coverage of the law to stock brokerage firms and foreign currency exchange facilities and gives the Central Bank of Nigeria greater power to deny banks licenses and to freeze suspicious accounts; and the new Financial Crimes Commission Act that creates a central law enforcement body to coordinate anti-money laundering operations and information sharing. The Economic and Financial Crimes Commission (EFCC), created by the December legislation, was formally constituted in April 2003 to investigate and prosecute all forms of economic crimes, advance fee fraud (419) and other financial sabotage against the country. In November 2003, President Obasanjo presented bills on money laundering and economic crimes to the Senate for consideration. The bills would repeal the Money Laundering Act 2003 and the Economic and Financial Crimes (Establishment) Act 2002 in order to strengthen them against these crimes and to get Nigeria de-listed from the Financial Action Task Force (FATF) list of Non-Cooperative Countries or Territories (NCCT). Nigeria recently inaugurated a 15-member panel, chaired by the National Security Advisor, to check advance-fee fraud and allied crimes via the Internet.

The National Drug Law Enforcement Agency (NDLEA) and the Money Laundering Surveillance Unit (MLSU) of the Central Bank of Nigeria will continue to play a role in fighting money laundering, but will have the lead only where money laundering is connected to proceeds of drug trafficking.

The EFCC recently set up a Financial Intelligence Unit (FIU) and has since May 2003, recovered or seized assets valued at over 31 billion Naira (US\$219 million dollars) from various fraudsters inside and outside of Nigeria and more than one billion Naira (approximately US\$7 million dollars) from a syndicate that included highly placed government officials defrauding the Federal Inland Revenue Service (FIRS). Several influential individuals have been arrested and are

currently incarcerated awaiting trial and numerous properties and personal possessions have been confiscated. In an effort to expedite the trial process, the Commission has been assigned two high court judges in Lagos and two in Abuja to hear all cases involving financial crimes. This has resulted in an aggressive campaign to combat "419" and other economic crimes in Nigeria and has served as notice for some that the country is serious about sanitizing its image as a corrupt nation. We encourage the Government of Nigeria to adequately fund all agencies involved in combating economic crimes making them less susceptible to corruption.

The following responses are keyed to the questions in reftel.

18. Nigeria is considered an important regional financial center. Lagos, the former capitol, is the New York of Nigeria. It is the hub of all manner of financial crimes, including bank fraud, advance fee (419) fraud and money laundering.

19. Money laundering is not primarily related to narcotics proceeds but rather to the proceeds of public corruption. According to reports from Central Bank of Nigeria (CBN) and the National Insurance Cooperation of Nigeria (NICON), bank fraud is on the increase. Numerous banks have been closed due to rules violations and misappropriation.

20. Criminal proceeds laundered in Nigeria are from domestic criminal activity.

21. Nigeria does have a significant black market for smuggled goods and although items have been linked to individuals connected with financial crimes, the funding of these goods are not believed to be from narcotics or other illicit proceeds.

22. Money Laundering occurs in all areas of financial activities.(example: Government officials deposit agency funds in preferred banks sometimes for a fee)

23. There is no evidence that narco-traffickers or any other particular group controls money-laundering proceeds in Nigeria. Nigeria has pockets of criminal activity but not organized in our definition of criminal organizations, i.e. mafia, cartel etc.

24. Neither the Nigerian government nor any senior government officials are known to encourage, facilitate or engage in laundering the proceeds from illegal drug transactions, from other serious crimes or from terrorist financing as a matter of government policy or practice. To the contrary, the Obasanjo administration has gone out of its way to project an image of being serious about stamping out corruption and other crimes that affect the image of the country.

25. It is possible for financial institutions to engage in illegal currency transactions involving international narcotics trafficking proceeds that include U.S. currency but post has no direct knowledge of any particular occurrences. The Nigeria National Assembly recently passed money laundering and financial and economic crime legislation strengthening previous legislation in both areas.

26. Money laundering is a criminal offense under Nigerian law. The Money Laundering Prohibition Act 2003 signed May 22, 2003 and the new Economic and Financial Crimes Act 2002 were recently appealed and new Money Laundering and Economic Crime Bills recently passed the National Assembly and have been forwarded to the President for signature.

27. The money laundering law applies to proceeds of all financial crimes. It also covers stock brokerage firms and foreign currency exchange facilities. It also gives the CBN greater powers to deny banks licenses and freeze suspicious accounts.

28. Banks and Financial Institutions are required to identify customers whenever transactions exceed the threshold amount of \$5,000 or its equivalent. A report must be filed even if the transaction was not accepted.

29. Banks are required to retain record of significant transactions for five years.

30. Suspicious transactions must be reported when they occur.

31. Since money-laundering laws require banks to report suspicious transactions, they are in turn, protected by that law.

32. There are no secrecy laws dealing with financial activity in Nigeria.

33. Individuals are required to declare currency of \$10,000 or equivalent when entering Nigeria.

34. See 33.

35. Banks risk losing their license to operate and bank officers are subject to prosecution for failure to take actions to identify and combat money-laundering activity.

36. Nigeria's money laundering law of May 2003 applies to exchange houses and other financial institutions. New legislation recently passed in the National Assembly is designed to close the loopholes in casinos, insurance companies, hotels and individuals not covered under previous legislation.

37. There is one case currently before the Nigerian courts

involving money laundering.

138. The anti-money laundering law created the EFCC that has made numerous high-profile arrests of persons suspected of financial crimes. Public opinion has been very favorable and the banks are very receptive since many have been hurt by fraudulent activity in the past.

139. The Economic and Financial Crimes Commission (Establishment) Act 2002, which passed on December 15, 2002, criminalizes the financing and participation in terrorism. Any person who commits an offense under the Act is liable on conviction to imprisonment for life. "Offenses relating to Terrorism"

- a. a person who willfully provides or collects by any means, directly or indirectly, any money by any other person with intent that the money shall be used for any act of terrorism, commits an offense under this Act and is liable on conviction to imprisonment for life.
- b. Any person who commits or attempts to commit a terrorist act or participates in or facilitates the commission of a terrorist act, commits an offense under this Act and is liable on conviction to imprisonment for life.
- c. Any person who makes funds, financial assets or economic resources or financial or other related services available for use of any other person to commit or attempt to commit, facilitate or participate in the commission of a terrorist act is liable on conviction to imprisonment for life.

140. The jurisdiction has the authority to identify, freeze, and seize terrorist finance-related assets, and circulate the list of individuals and entities that have been included in the UN 1267 Sanctions Committee Consolidated list.

141. No terrorist finance-related assets have been identified by the GON.

142. Nigeria recognizes the existence and use of indigenous alternative remittance systems such as moneychangers and has established a requirement for registration with the CBN according to prescribed criteria.

143. According to the EFCC, this is not yet a problem in Nigeria.

144. Nigeria is a party to the 1999 International Convention.

OFFSHORE FINANCIAL CENTERS

45-48. Not Applicable, Nigeria has no offshore banking system.

INTERNATIONAL COOPERATION

149. Nigeria and the U.S. signed a Mutual Legal Assistance Treaty (MLAT) in 1989, which was ratified by the U.S. in 2001. The instrument of ratification was signed in January 2003.

150. N/A

151. USG personnel as well as those of other governments have access to documents and records involving investigations of all criminal activity.

152. Nigeria has demonstrated a willingness to cooperate with all USG law enforcement agencies in the investigations of all types of crimes.

153. Nigeria is a party to the UN Drug Convention and has passed legislation that adheres to international money laundering standards. Nigeria's EFCC, constituted in April 2003, recently set up a Financial Intelligence Unit (FIU). Legislation to strengthen the laws was passed by the National Assembly in December 2003.

154. Yes, frequent exchanges of information have taken place with USG law enforcement agencies but on-site examinations are done through host country contacts.

155. Nigeria has been very cooperative with the U.S., especially during extradition proceedings, resulting in the extradition to the U.S. of an individual for financial fraud. Two additional cases are pending on which the GON has been extremely cooperative with U.S. law enforcement authorities.

156. Since 1999, the USG and GON have enjoyed excellent cooperation on many fronts. Post knows of no instances where Nigeria has refused to cooperate with a foreign government or the USG.

157. Nigeria has signed bi-lateral agreements for exchange of information on money laundering with South Africa, United Kingdom, and all Commonwealth and Economic Community of West African States (ECOWAS) countries.

158. Nigeria and the U.S. signed a bi-lateral Letter of Agreement (LOA) in July 2002 for narcotics and law enforcement assistance. That agreement has been amended four times to expand assistance in various area of law enforcement. The instrument of ratification for the Mutual Legal Assistance Treaty (MLAT) was signed in January 2003.

ASSET FORFEITURE AND SEIZURE LEGISLATION

159. (N/A)

160. Asset forfeiture is covered under the Economic and Financial Crimes Commission (Establishment) Act 2002.

161. The EFCC Act has provisions for sharing of proceeds of seized assets.

162. Adequate provisions exist in current laws but the

resources for enforcement are limited.

¶63. N/A

¶64. According to Nigeria's money laundering legislation, anything related to the crime is liable to seizure.

¶65. Any business involved in the commission of a crime is liable for seizure under Nigeria's money laundering law.

¶66. Proceeds of seized assets go to the Federal Government.

¶67. Working with FATF, Nigeria took great strides to ensure that traffickers could not take advantage of money laundering laws. The bill currently being forwarded to the President for signature should close any remaining loopholes.

¶68. Yes, the law applies equally to civil and criminal forfeitures.

¶69. Enforcement is limited for drug-related seizures since most of the drug seizures are small and involve couriers transiting Nigeria's international airports, however, the EFCC has made numerous seizures involving financial fraud.

¶70. The National Drug Law Enforcement Agency (NDLEA) and the Economic and Financial Crimes Commission (EFCC) and the Nigerian Police Force (NPF) in some cases are responsible for tracing and seizing assets.

¶71. The EFCC Act gives police powers to the Commission.

¶72. Since May 2003, the EFCC has seized assets valued over \$200,000,000.

¶73. The EFCC didn't exist until April of 2003 and no estimates are available for the time period prior to their existence.

¶74. The MLAT and improved relations between Nigeria and the U.S. has ensured cooperation on many issues. Bank accounts have been frozen in response to request from the USG.

¶75. Yes, in the investigative process, Nigeria uses all available information to pursue the perpetrators of financial crimes.

¶76. Nigeria is engaged with South Africa, United Kingdom and ECOWAS on agreements to enhance its fight against financial fraud.

¶77. Public and political response have been very positive to the efforts of the EFCC.

¶78. Banks are very supportive and cooperative with the law enforcement agencies responsible for money laundering and financial crime prevention. They recognize the benefits to be gained.

¶79. EFCC revealed that some threats have been made but no attempts to carry out any threats or retaliation for enforcing the economic crime laws.

ROBERTS